

This letter concerns the application of the temporary storage exemption and the expanded temporary storage exemption. See 86 Ill. Adm. Code 150.310(a)(4) and 150.310(a)(6). (This is a PLR.)

July 21, 2005

Dear Xxxxx:

This letter is in response to your associate's correspondence dated August 4, 2003 and November 13, 2003, in which you and she request information. We apologize for the lengthy delay in responding to your request. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

Review of your request disclosed that all the information described in paragraphs 1 through 8 of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to TAXPAYER for the issue or issues presented in this ruling, and is subject to the provisions of subsection (e) of Section 1200.110 governing expiration of Private Letter Rulings. Issuance of this ruling is conditioned upon the understanding that neither TAXPYAER nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request. In your letter you have stated and made inquiry as follows:

We are writing on behalf of our client, "Taxpayer" to request a Private Letter Ruling ("Ruling") from the Illinois Department of Revenue ("Department") addressing the taxability of its linen purchases ("Purchases").

Taxpayer is not presently under examination by the Department, and has not been contacted by the Department regarding sales or use taxes. To the best of the Taxpayer's knowledge and our knowledge, the Department has not previously ruled on the same or a similar issue for Taxpayer, and Taxpayer has not submitted the same or a similar issue to the Department, withdrawing the issue before a letter ruling was issued.

Facts

Taxpayer provides linen rental and laundry services for the healthcare industry. Taxpayer operates a facility in Illinois, which is the focus of this analysis. Two of Taxpayer's customers ("primary customers") represent over 99% of Taxpayer's

revenues. None of the primary customers' facilities are located in Illinois. The remaining customers are small ("specialty") customers that may be located within or outside of Illinois. Most specialty customers do not rent linens from Taxpayer (i.e., the specialty customers own the linens and contract with Taxpayer for laundry service only. As a result, the primary customers are the focus of this analysis.)

Taxpayer purchases linens from Illinois and non-Illinois vendors to fulfill its contracts. All linens are assigned to an existing customer upon purchase. While each customer may have a separate inventory of linens, Taxpayer does not maintain a general inventory of unassigned linens.

The linens are provided to customers, and after use are returned to Taxpayer's Illinois facility for laundering. Thereafter, the linens are returned to customers for use. The linens for the primary customers are used exclusively for each respective customer throughout the life of the lease. For purposes of tracking replacement cost (e.g., lost linens and wear), the linens are not pooled or co-mingled with those of another customer.

Taxpayer has applied for and has received an expanded temporary storage permit from the Illinois Department of Revenue.

Proposed Ruling

Taxpayer respectfully requests a private letter ruling confirming that linen purchases for its primary customers from both Illinois and non-Illinois vendors qualify for the temporary storage exemptions.

Analysis

Illinois provides a use tax exemption for:

the temporary storage, in this state, of tangible personal property that is acquired outside this State and that, after being brought into this State and stored temporarily, is used solely outside this State or is physically attached to or incorporated into other tangible personal property that is used solely outside this State, or is altered by converting, fabricating, manufacturing, printing, processing, or shaping, and, as altered, is used solely outside this State. 35 ILCS §105/3-55(e).

Likewise, effective January 1, 2002, Illinois expanded the exemption to apply to tangible personal property purchased from Illinois retailers by a taxpayer engaged in centralized purchasing. 35 ILCS §105/3-55(j).

"Centralized purchasing" means the procurement of tangible personal property by persons who purchase tangible personal property solely for use or consumption outside Illinois, who take delivery of that tangible personal property in Illinois and who temporarily store that tangible personal property in Illinois prior to transporting it outside the State for use or consumption solely outside the Illinois. 86 Ill. Admin. Code Sec. 150.310(a)(6)(A).

The Department Regulation further provides examples regarding application of the expanded temporary storage exemption to lease situations:

[A] lessor that purchases an item from an Illinois retailer specifically to fulfill its obligations under an existing lease with a lessee located outside Illinois, takes delivery of that item in Illinois and then stores that item at an Illinois warehouse until it is shipped to its lessee's out-of-State location can qualify for the exemption so long as the item is used solely outside Illinois. 86 Ill. Admin. Code Sec. 150.310(a)(6)(A)(ii).

However, a lessor who purchases an item that is not dedicated to an existing lease with an out-of-State lessee, takes delivery of that item in Illinois and then places it in an Illinois rental inventory cannot qualify for the exemption even if the item is subsequently leased to an out-of-State lessee. This is true because, in Illinois, lessors are deemed to be the users of the items purchased for rental inventories and placing an item in a rental inventory does not constitute storage. 86 Ill. Admin. Code Sec. 150.310(a)(6)(A)(iii).

Taxpayer's linen purchases for its primary customers meet the requirements of the temporary storage exemptions. Taxpayer is a lessor of linens. Taxpayer has "centralized purchasing" of primary customer linens at its Illinois location, for subsequent use solely outside Illinois. At the time of purchase, the linens are dedicated to the primary customers, which are out-of-State lessees. The linens are temporarily stored in Illinois and shipped to the out-of-state lessees for use. Although the linens are periodically returned to the Illinois facility for processing, property that is altered by processing and, as altered, is used solely outside Illinois qualifies for the temporary storage exemption (see *Nutrition Headquarters, Inc. v. Department of Revenue*, 106 Ill. 2d 58; 477 N.E.2d 235 (1985)). As a result, Taxpayer's purchase of linens dedicated to the primary customers, which are non-Illinois lessees, qualify for the temporary storage exemptions under 35 ILCS 105/3-55(e) and (j).

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Your assistance in this matter is appreciated. If you believe that you would not find in accordance with the proposed Ruling set forth above, the opportunity to submit additional information and discuss this matter in greater detail is requested. Please call me if you have any questions.

DEPARTMENT'S RESPONSE:

Section 150.310(a)(6) of the Department's Use Tax rules provide that the Use Tax shall not apply to:

"beginning on January 1, 2002, the use of tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. [35 ILCS 105/3-55(j)]"

Your letter states that TAXPAYER is engaged in centralized purchasing of linen for lease to two primary customers who use the linens in facilities located outside of Illinois. These rental linens are purchased from out-of-State and Illinois vendors. The linens are temporarily stored in this State until they are shipped out-of-State to the primary customers. The linens are returned to this State for laundering before being returned to the primary customers. Your letter also states that TAXPAYER has received an expanded temporary storage permit issued by the Department.

Expanded temporary storage exemption for purchases in Illinois:

If linens that are being used for rental are purchased in this State, the purchaser incurs tax on the purchase price of those linens at the time of purchase or must document that the purchase is exempt from tax. You have claimed that such purchases are exempt from tax under the expanded temporary storage exemption. We believe that the subsequent laundering of the linens in this State is a use of those linens in this State and disqualifies the linens for the expanded temporary storage exemption described in 86 Ill. Adm. Code 150.310(a)(6). If the linens have been purchased in Illinois without payment of tax by use of TAXPAYER's expanded temporary storage permit, Retailers' Occupation Tax and any applicable local retailers' occupation tax is due when those linens are returned to this State for laundering. See Section 150.310(a)(6)(F). Please note that a depreciation deduction will be allowed, and a credit may be taken for any tax properly due and paid in another state in respect to the sale, purchase, or use of those linens. See Section 150.310(a)(6)(F).

Temporary storage exemption for out-of-State purchases:

If linens that are being used for rental are purchased outside of this State, the purchaser will incur tax on those linens when they are brought into this State unless the purchaser can document a valid exemption. We also believe that the subsequent return of the linens to this State for laundering under such rental contracts also does not fall within the temporary storage exemption provided under Section 150.310(a)(4). If the linens have been purchased out-of-State, TAXPAYER will owe Illinois Use Tax on the cost price of the linens when they are brought into the State for laundering. Depreciation and a credit for taxes properly due and paid to another state may be claimed in determining the amount of Illinois Use Tax incurred when the linens are brought into this State. See Sections 150.105(a) and 150.310(a)(3).

The facts upon which this ruling are based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the material facts as recited in this ruling are correct and complete. This ruling will cease to bind the Department if there is a pertinent change in statutory law, case law, rules or in the material facts recited in this ruling.

I hope this information is helpful. If you have further questions concerning this Private Letter ruling, you may contact me at (217) 782-2844. If you have further questions related to the Illinois sales tax laws, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk